

BILL NO. 25 - 2021

ORDINANCE NO. 2021-_____

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF LEHIGH AND NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, AMENDING ARTICLE 342 OF THE CODIFIED ORDINANCES ENTITLED LOCAL ECONOMIC REVITALIZATION TAX ASSISTANCE - ENTERPRISE DEVELOPMENT AREA.

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Article 342 of the Codified Ordinances is hereby repealed in its entirety.

SECTION 2. Article 342 of the Codified Ordinances is hereby re-enacted as amended herein and shall read as follows:

ARTICLE 342

Local Economic Revitalization Tax Assistance

- 342.01 Definitions.
- 342.02 Eligible Exemption Amount.
- 342.03 Exemption Schedule.
- 342.04 Notice to Taxpayers.
- 342.05 Procedure for Obtaining Exemption.
- 342.06 Termination.
- 342.07 Hearing Board.
- 342.08 Rules and Regulations.
- 342.09 Severability.
- 342.10 Contingency.
- 342.11 Default.
- 342.12 Appeal of Default.

CROSS REFERENCE

Resolution 10,051 passed 11/13/84; Resolution 10,365 passed 5/27/86.

Improvement of Deteriorating Real Property or Areas Tax Exemption Act - See 72 P.S. §4711-101 et seq.

Local Economic Revitalization Tax Assistance Act - See 72 P.S. §4722 et seq.

342.01 DEFINITIONS.

(a) As used in this Ordinance, the following words and phrases shall have the meaning set forth below:

- (1) Affordable Housing is defined as housing in which each and every occupant is paying no more than 30 percent of gross income for housing costs, including utilities.
- (2) "Becomes assessable" means immediately following issuance of the state and local occupancy permits.
- (3) "Deteriorated area" means that area or areas of the City which City Council has determined to be physically blighted in Resolution No. 2017-136 enacted on June 20, 2017 pursuant to Ordinance 2017-23 (known as the "Southside LERTA District") and Act 76 of 1977 of the General Assembly of the Commonwealth of Pennsylvania, as amended (72 P.S. 4722 et seq.), and/or Resolution 2017-103 enacted on April 18, 2017 (known as the Northside IDRPA District") pursuant to Ordinance 2017-13, which amends Ordinance 2016-23, and Act 42 of 1977 of the General Assembly of the Commonwealth of Pennsylvania, as Amended (72 P.S. § 4711-101, et seq.), and Resolution No. 2021-xxx enacted on _____, 2021 pursuant to this Ordinance No. 2021-XXX (which re-enacts and restates Article 342 to include an area to be known as the "Affordable Housing LERTA District") and Act 76 of 1977 of the General Assembly of the Commonwealth of Pennsylvania, as amended (72 P.S. 4722 et seq.).

(Editor's Note: See Resolutions Nos. 10,051, 10,366, 10,487, 10,863, 11,430, 11,547, 13,043, 13,462, 13,501, 15,163, 2012-166, and 2017-103, for prior boundaries of the deteriorated area.) (Ord. 4446. Passed 10/16/07; Ord. 2012-28. Passed 10/2/12; Ord. 2016-23. Passed 9/6/16; Ord. 2017-13; Ord. 2017-23. Passed 6/20/2017)

- (4) "Deteriorated property" means any industrial, commercial or other business property owned by an individual, association or corporation, and located in a deteriorating area, as provided by Resolution of Council, or any such property which has been the subject of an order by the City requiring the unit to be vacated, condemned or demolished by reason of noncompliance with laws, ordinance or regulations. Buildings wherein at least 30% of the usable gross floor area is utilized for industrial, commercial, or business use shall, if otherwise qualified, be considered a "deteriorated property" within this Article.
- (5) "Dwelling Unit" means a single habitable living unit occupied by only one "family" (see definition). To be considered a dwelling unit, each dwelling unit shall have: a) its own toilet, bath or shower, sink, sleeping or cooking facilities and b) separate access to the outside or to a common hallway or balcony that connects to outside access at ground level. A dwelling unit shall not include

two or more separate living areas that are completely separated by interior walls so as to prevent interior access from one living area to another.

- (6) "Family" shall mean one or more individuals who are "related" to each other by blood, marriage or adoption (including persons receiving formal foster care) or up to 5 unrelated individuals who maintain a common household with common cooking facilities and certain rooms in common, and who live within one dwelling unit.
- (7) "Improvement" means the construction of new building structures, new additions to existing structures or substantial renovations to existing structures which result in an increase in assessed valuation of the deteriorated property. Such improvements shall have the effect of rehabilitating a deteriorated property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity or is brought into compliance with laws, ordinances or regulations governing such standards. Ordinary upkeep and maintenance shall not be deemed an improvement.
- (8) "Local taxing authority" means the City of Bethlehem, the Bethlehem Area School District, the Saucon Valley School District, the County of Northampton, or any other governmental entity having the authority to levy real property taxes within the City of Bethlehem. (Ord. 3355. Passed 10/16/90; Ord. 3523. Passed 1/5/93; Ord 4446. Passed 10/16/07.)
- (8) "Municipal governing body" means the City of Bethlehem.

342.02 ELIGIBLE EXEMPTION AMOUNT.

(a) The exemption shall be limited to that improvement for which an exemption has been requested in the manner set forth below, and for which a separate assessment has been made by the Northampton County Board of Assessment Appeals. (Ord. 3355. Passed 10/16/90; Ord. 4446. Passed 10/16/07.)

(b) For the deteriorated area governed by Resolution No. 2017-136 enacted on June 20, 2017 ("Southside LERTA District") pursuant to Ordinance No. 2017-23, the amount eligible to be exempted shall be 100% of the additional assessment attributable to the actual cost of improvements.

(c) For the deteriorated area governed by Resolution 2017-103 enacted on April 18, 2017 ("Northside IDRPA District") pursuant to Ordinance No. 2017-13, the amount eligible to be exempted shall be limited to 10% of the additional assessment attributable to the actual cost of improvements.

(d) For the deteriorated area governed by Resolution No. 2021-xxx enacted on _____, 2021 ("Affordable Housing LERTA District") pursuant to this Ordinance No. 2021-XXX (which re-enacts and restates Article 342 to include an area to be known as the "Affordable Housing

LERTA District”), the amount eligible to be exempted shall equal 100% of the assessment attributable to the actual cost of qualifying new construction or improvements, provided that throughout the entire period for which the Exemption Schedule under 342.03.III applies (i) the improvements made for Commercial purposes constitute 10 or more dwelling units which are made solely available use for as dwelling units and (ii) 10% of those dwelling units so-created are set aside and reserved exclusively for affordable housing by qualified persons meeting the requirements of subsection (d)(3) below. In the event compliance with the requirements of clauses (i) or (ii) above ceases at any time during the period in which a property is subject to the exemption schedule set forth in 342.03.III, the property shall be disqualified from the exemption allowed by this Ordinance retroactive to the date of the application to make such improvements shall have been filed with the City of Bethlehem. As a result of such noncompliance, the record owner of the property at the time of such noncompliance shall be liable for payment of 100% of the assessment attributable to the actual cost of the improvements retroactive to the date of the application to make such improvements shall have been filed with the City of Bethlehem, which amount shall also constitute an immediate lien on said property, together with all charges, expenses, and fees incurred in the collection of any delinquent account, including reasonable attorney fees, and be collectible in the manner provided by law for municipal liens.

- (1) The record owner of a property seeking an exemption hereunder shall have the option to make a minimum contribution of \$25,000 for each unit required to be designated for affordable housing under this Ordinance if such record owner elects not to actually set such unit aside for affordable housing but still desires the exemption allowed by this Ordinance. The record owner shall have the right to make this declaration and contribution only at the time of filing the application for a building permit to commence construction and shall only be required to make this payment one time.
- (2) The contribution authorized by Article 342.02(d)(1) shall be held by the City Business Administrator in a segregated interest-bearing fund account designated solely for the purposes of advancing affordable housing and remediating in whole or in part deteriorated areas through a program of low interest loans, forgiveness grants, and/or rental assistance to persons of low, very low, and extremely low income as may be determined by the poverty guidelines of the United States Department of Housing and Urban Development then-prevailing at the time of disbursement. Money so-collected must be accounted for and expended solely for such purposes within territorial boundaries of the City of Bethlehem. Such fund shall also be subject to an annual administrative charge of the City associated with the management of the Affordable Housing LERTA District and distributions from the fund, but such annual administrative charges shall not exceed 1% of the contribution made under Article 342.02(d)(1).
- (3) Units set aside for affordable housing by qualified persons shall be satisfy the following criteria throughout the exemption period:
 - i. Each and every occupant of a designated affordable housing unit shall qualify as a person of low, very low, and extremely low income, or a

dependent thereof, as may be determined by the poverty guidelines of the United States Department of Housing and Urban Development then-prevailing.

- ii. Occupants of any affordable housing unit governed by this Article are required to report to the Director of the Department of Community and Economic Development any increases in income or changes in income sources known to them or about which they, upon information received, become aware relating to an occupant of the affordable housing unit within which he or she resides.
- iii. Owners are required take all reasonable measures to ensure any affordable housing unit governed by this Article is occupied only by individuals who qualify as persons of low, very low, and extremely low income, or a dependent thereof and to report to the Director of the Department of Community and Economic Development any increases in income or changes in income sources known to them or about which they, upon information received, become aware relating to an occupant of the affordable housing unit.

- (4) In addition to the provisions of 342.08, the Director of the Department of Community and Economic Development is hereby authorized and empowered to promulgate and enforce rules and regulations to implement and/or supplement the prevailing poverty guidelines of the United States Department of Housing and Urban Development to ensure the occupancy of any affordable housing unit by persons of low, very low, and extremely low income, or a dependent thereof.

342.03 EXEMPTION SCHEDULE.

I. Exemption Schedule for Southside LERTA District:

Subject to the conditions, requirements, and limitations set forth in this Ordinance, taxpayers making assessable improvements to the deteriorated area governed by Resolution No. 2017-136 enacted on June 20, 2017 (“Southside LERTA District”) pursuant to Ordinance No. 2017-23, and starting on 1/1/2018, may apply for and may be granted a real estate tax exemption limited to the eligible amount specified in Section 342.02 above subject to the following schedule:

- (a) For the first year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
- (b) For the second year immediately following the date upon which the improvement becomes assessable, 90% of the eligible assessment shall be exempted.
- (c) For the third year immediately following the date upon which the improvement becomes assessable, 80% of the eligible assessment shall be exempted.

- (d) For the fourth year immediately following the date upon which the improvement becomes assessable, 70% of the eligible assessment shall be exempted.
- (e) For the fifth year immediately following the date upon which the improvement becomes assessable, 60% of the eligible assessment shall be exempted.
- (f) For the sixth year immediately following the date upon which the improvement becomes assessable, 50% of the eligible assessment shall be exempted.
- (g) For the seventh year immediately following the date upon which the improvement becomes assessable, 40% of the eligible assessment shall be exempted.
- (h) For the eighth year immediately following the date upon which the improvement becomes assessable, 30% of the eligible assessment shall be exempted.
- (i) For the ninth year immediately following the date upon which the improvement becomes assessable, 20% of the eligible assessment shall be exempted.
- (j) For the tenth year immediately following the date upon which the improvement becomes assessable, 10% of the eligible assessment shall be exempted.
- (k) After the tenth year the exemption shall terminate.
- (l) The exemption from taxes granted under this Ordinance shall be upon the property and shall not terminate upon the sale or exchange of the property.

II. Exemption Schedule for Northside LERTA District:

Subject to the conditions, requirements, and limitations set forth in this Ordinance, taxpayers making assessable improvements to deteriorated property located in the deteriorated area governed by Resolution 2017-103 enacted on April 18, 2017 (“Northside IDRPA District”) pursuant to Ordinance No. 2017-13 and effective 10/1/2017, may apply for and may be granted a real estate tax exemption limited to the eligible amount specified in Section 342.02 above subject to the following schedule:

- (a) For the first year immediately following the date upon which the improvement becomes assessable through the tenth year upon, the entire the eligible assessment shall be exempted.
- (b) The exemption from taxes granted under this Ordinance shall be upon the property and shall not terminate upon the sale or exchange of the property.

(Ord. 4446. Passed 10/16/07; Ord. 2017-13. Passed 4/18/2017; Ord. 2017-23. Passed 6/20/2017)

III. Exemption Schedule for Affordable Housing LERTA District:

Subject to the conditions, requirements, and limitations set forth in this Ordinance, taxpayers making assessable improvements to deteriorated property located in the deteriorated area governed

by Resolution No. 2021-xxx enacted on _____, 2021 pursuant to this Ordinance No. 2021-XXX (which re-enacts and restates Article 342 to include an area to be known as the “Affordable Housing LERTA District”), and effective 20 days after the enactment of this Ordinance No. 2021-XXX, may apply for and may be granted a real estate tax exemption limited to the eligible amount specified in Section 342.02 above subject to the following schedule

- (a) For the first year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
- (b) For the second year immediately following the date upon which the improvement becomes assessable, 90% of the eligible assessment shall be exempted.
- (c) For the third year immediately following the date upon which the improvement becomes assessable, 80% of the eligible assessment shall be exempted.
- (d) For the fourth year immediately following the date upon which the improvement becomes assessable, 70% of the eligible assessment shall be exempted.
- (e) For the fifth year immediately following the date upon which the improvement becomes assessable, 60% of the eligible assessment shall be exempted.
- (f) For the sixth year immediately following the date upon which the improvement becomes assessable, 50% of the eligible assessment shall be exempted.
- (g) For the seventh year immediately following the date upon which the improvement becomes assessable, 40% of the eligible assessment shall be exempted.
- (h) For the eighth year immediately following the date upon which the improvement becomes assessable, 30% of the eligible assessment shall be exempted.
- (i) For the ninth year immediately following the date upon which the improvement becomes assessable, 20% of the eligible assessment shall be exempted.
- (j) For the tenth year immediately following the date upon which the improvement becomes assessable, 10% of the eligible assessment shall be exempted.
- (k) After the tenth year the exemption shall terminate.
- (l) The exemption from taxes granted under this Ordinance shall be upon the property and shall not terminate upon the sale or exchange of the property provided the new property taxpayer(s) complies with the applicable requirements of 342.02(d) during the remaining period for which the Exemption Schedule under 342.03.III applies.

342.04 NOTICE TO TAXPAYERS.

- (a) There shall be placed on the form application for building, zoning and alteration

permits the following:

NOTICE TO TAXPAYERS

Under the provisions of City Ordinance No. 2959, as amended, you may be entitled to a property tax exemption on your contemplated new construction. An application for exemption may be secured from the City of Bethlehem and must be filed with the City at the time a building permit is secured.

(b) At the time a building permit is secured for construction upon an existing deteriorated property for which an exemption is requested, the taxpayer shall apply to the City of Bethlehem or any successor agency thereto for the exemption provided for in this Ordinance. The taxpayer shall be permitted to apply for the exemption provided in this Ordinance up to a period of sixty (60) days from the date a final executed building permit is secured. Request for the exemption must be in writing certified in full as prescribed by the City setting forth the following information:

- (1) The date a final executed building permit was issued for said improvement.
- (2) The type of improvement.
- (3) The summary of the plan of the improvement.
- (4) The cost of the improvement.
- (5) That the property has been inspected and verified by the City of Bethlehem, Bureau of Inspections.
- (6) Any or all such additional information the City may require.

(Ord. 3355. Passed 10/16/90; Ord. 4446. Passed 10/16/07.)

342.05 PROCEDURE FOR OBTAINING EXEMPTION.

A copy of the request for exemption shall be forwarded to the Northampton County Board of Assessment Appeals and the Bethlehem Area School District or the Saucon Valley School District as would be applicable by the City. Upon completion of the improvement, the taxpayer shall notify the City and the Northampton County Board of Assessment Appeals, so that the Board may assess the improvements separately for the purpose of calculating the amount of assessment eligible for tax exemption in accordance with the limits established in this Ordinance. The City will then obtain from the Board the amount of the assessment eligible for exemption and will notify the taxpayer. The Treasurer is authorized to make refunds, if applicable, only after the Northampton County Board of Assessment Appeals has notified the Treasurer of its separate assessment upon the improvement for which an exemption is requested. Appeals from the reassessment and the amount eligible for the exemption may be taken by the taxpayer of the City as provided by law. (Ord. 3355. Passed 10/16/90; Ord. 4446. Passed 10/16/07.)

342.06 TERMINATION.

(a) Southside LERTA District: This ordinance shall terminate on December 31, 2022 for the deteriorating area governed by Resolution No. 2017-136 enacted on June 20, 2017.

(b) Northside IDRPA District: This ordinance shall terminate on December 31, 2023 for the deteriorated area(s) governed by Resolution 2017-103 (relating to the South Side LERTA District) enacted on April 18, 2017.

(c) Affordable Housing LERTA District: This ordinance shall terminate on December 31, 2026 for the deteriorated area(s) governed by Resolution No. 2021-xxx enacted on _____, 2021 pursuant to this Ordinance No. 2021-XXX (relating to the "Affordable Housing LERTA District").

(d) No later than its termination date, the Mayor of the City of Bethlehem shall submit a written report to the Council of the City of Bethlehem which shall inform the Council as to how this Ordinance has been administered, the effects of this Ordinance on the community for the deteriorated area whose termination is thereupon imminent and include any suggestions or recommendations for this Ordinance's reenactment, modification or repeal.

(e) Nothing contained herein shall act to prohibit the Council of the City of Bethlehem from modifying or repealing this Ordinance, or enacting a similar ordinance in the future.

(f) Except in the case of default by a taxpayer in paying all real estate taxes by the end of the fiscal year in which such taxes are due on a property qualifying for an exception under this Article, any property tax exemptions granted under the provisions of this Ordinance shall be permitted to continue according to the exemption schedule found in Section 342.03, even if this Ordinance expires or is repealed. In the event a taxpayer fails to pay all such real estate taxes by the end of the fiscal year in which such taxes are due, the taxpayer shall be disqualified from the benefits of this Ordinance beginning in the year during which the default occurred through the end of the applicable Exemption Schedule set forth in 342.03.

(Ord. 3069 §3. Passed 5/27/86; Ord. 3205. Passed 8/2/88; Ord. 3355. Passed 10/16/90; Ord. 3519. Passed 12/15/92; Ord. 3642. Passed 11/1/94; Ord. 3771. Passed 10/1/96; Ord. 3905. Passed 10/6/98; Ord. 4042. Passed 11/21/00; Ord. 4172. Passed 12/23/02; Ord. 4278. Passed 10/5/04; Ord. 4406. Passed 12/5/06; Ord. 4446. Passed 10/16/07; Ord. 2008-42. Passed 12/16/08; Ord. 2010-26. Passed 12/7/10; Ord 2012-28. Passed 10/2/12; Ord. 2016-23. Passed 9/6/16; Ord. 2017-13. Passed 4/18/2017; Ord. 2017-23. Passed 6/20/2017)

342.07 HEARING BOARD.

A Tax Abatement Hearing Board is hereby created and shall consist of the Business Administrator of the City of Bethlehem, the Director of the Department of Community and Economic Development of the City of Bethlehem, the Director of Fiscal Affairs of the County of Northampton, the Assistant to the Superintendent for Finance and Business Administration of the Bethlehem Area School District, and the Business Manager of the Saucon Valley School District for

resolution of differences between the approving authority and the owner-taxpayer of the improved property on matters concerning interpretation and execution of the provisions of this Ordinance.

The Hearing Board shall have the following powers:

- (1) To hear appeals from any person aggrieved by the application of this Ordinance.
- (2) To make rules with regard to conducting its hearings.
- (3) To make such findings of fact as may be required by the application of this Ordinance.
- (4) To decide questions presented to the Board.
- (5) To affirm, revoke or modify the decision of the City of Bethlehem as to the eligibility of a particular property for the Property Tax Abatement as provided for in this Ordinance.
- (6) The Board shall meet upon notice of the Chairman within thirty (30) days of the filing of an appeal and shall render its decision within thirty (30) days after the appeal hearing.
- (7) Every action of the Board shall be by resolution and certified copies furnished to the appellant.
- (8) All hearings shall be public and the appellant or any other person whose interests may be affected by the matter on appeal shall be given an opportunity to be heard.
- (9) For the purposes of this Ordinance, every action of the Board shall require a simple majority of the members in attendance. Attendance at the hearing by three (3) members of the Board shall be required to constitute a quorum for a meeting and for action on an appeal.

(Ord. 3069 §4. Passed 5/27/86; Ord. 3205 §4. Passed 8/2/88; Ord. 3355. Passed 10/16/90; Ord. 3519. Passed 12/15/92; Ord. 3642. Passed 11/1/94; Ord. 3771. Passed 10/1/96; Ord. 3905. Passed 10/6/98; Ord. 4042. Passed 11/21/00; Ord. 4172. Passed 12/23/02; Ord. 4278. Passed 10/5/04; Ord. 4406. Passed 12/5/06; Ord. 4446. Passed 10/16/07.)

342.08 RULES AND REGULATIONS

The Director of the Department of Community and Economic Development is hereby authorized and empowered to prepare, promulgate and enforce rules and regulations made pursuant to the provisions of this Ordinance. Such rules and regulations shall have the full force and effect of law unless modified, revoked or repealed by Council. (Ord. 3355. Passed 10/16/90.)

342.09 SEVERABILITY.

The provisions of this Ordinance are severable and if any of its sections, clauses or sentences shall be held illegal, invalid or unconstitutional, such provisions shall not affect or impair any of the remaining sections, clauses or sentences. It is hereby declared to be the intent of Council that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause or sentence had not been included herein.

342.10 CONTINGENCY.

Notwithstanding any other provisions of this Ordinance, this Ordinance shall remain in full force and effect conditioned upon the Bethlehem Area School District, the Saucon Valley School District and the County of Northampton enacting similar ordinances or resolutions with identical deteriorated areas as those designated by the Council of the City of Bethlehem.

(Ord. 3069. Passed 5/27/86; Ord. 3205. Passed 8/2/88; Ord. 3355. Passed 10/16/90; Ord. 3519. Passed 12/15/92; Ord. 3642. Passed 11/1/94; Ord. 3771. Passed 10/1/96; Ord. 3905. Passed 10/6/98; Ord. 4042. Passed 11/21/00; Ord. 4172. Passed 12/23/02; Ord. 4278. Passed 10/5/04; Ord. 4406. Passed 12/5/06; Ord. 4446. Passed 10/16/07.)

342.11 DEFAULT.

Tax abatement under this ordinance shall be available only for those properties for which real estate taxes are promptly paid and discharged by the end of the fiscal year in which such taxes are due. Any property that is declared delinquent as established by the statutes of the Commonwealth of Pennsylvania shall lose the LERTA benefits and any and all currently due and future taxes shall be due and payable at the full unabated assessment and tax rate. (Ord. 4446. Passed 10/16/07.)

342.12 APPEAL OF DEFAULT.

Properties that have been declared delinquent may appeal the rescission of the LERTA benefits by providing a written request to the Hearing Board providing a basis for the appeal and the justification for the waiver of the requirements of Section 342.11. (Ord. 4446. Passed 10/16/07.)

SECTION 3. All Ordinances and parts of Ordinances inconsistent herewith be, and the same are hereby repealed.

Sponsored by _____

PASSED finally in Council on the _____ day of _____, 2021.

President of Council

ATTEST:

City Clerk

This Ordinance approved this _____ day of _____, 2021.

Mayor